



Australian Government

**Seafarers Safety, Rehabilitation
and Compensation Authority**

Guidance on the prohibition on the use of asbestos in workplaces in the Seacare jurisdiction



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1. Definitions

For ease of reference we set out below some key definitions. Many of these terms are defined in the *Occupational Health and Safety (Maritime Industry) Act 1993* (the Act) or the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (the Regulations) and have been adopted, explained or summarised in this section. To the extent of any inconsistency, the definition in the Act or Regulations should be relied upon.

Asbestos	As defined in section 4 of these Guidelines
Atmospheric monitoring	Means the sampling of workplace atmospheres to derive a quantitative measure of exposure to a hazardous substance through inhalation
Seacare Jurisdiction	Means the maritime industry in Australia covered by the Act and the Regulations.
Bona Fide Research	(a) means a systematic, investigative or experimental activity conducted for the purpose of: <ul style="list-style-type: none"> i. acquiring new knowledge; or ii. creating new or improved materials, products, devices, processes or services; and (b) includes an activity conducted for the purpose of preparing an item containing asbestos for display in a museum or other historical displays.
Carcinogen	Means a cancer-causing substance or agent.
Disturbance	Means undertaking an activity referred to in section 8 of these Guidelines or something similar.
Exposure standard	In relation to exposure to a substance, means an airborne concentration of the substance in a person's breathing zone identified in accordance with the Exposure Standards for Atmospheric Contaminants in the Occupational Environment [NOHSC:1003 (1995)].
Friable	Means readily crumbled or brittle.
Hazardous substance	For the purpose of the Regulations, means the Scheduled carcinogenic substances prescribed by Schedule 1 of the Regulations
Health surveillance	Means the monitoring of an employee or a contractor, including the use of biological monitoring, to identify changes (if any) in the employee's or contractor's health due to exposure to a hazardous substance, but does not include atmospheric monitoring.
In-situ	As defined in section 7 of these Guidelines
Inspectorate	Means the Australian Maritime Safety Authority
Material Safety Data Sheet	Means a document designed to provide the information needed to allow the safe handling of hazardous substances used at workplaces.
Register of Hazardous Substances	Means a list that provides, at a minimum, a listing of all hazardous substances used at the workplace together with their Material Safety Data Sheets.

Risk Assessment	Means an assessment conducted to enable decisions to be made about appropriate control measures, induction and training, atmospheric monitoring and health surveillance commensurate with the level of risk that arises from use of a hazardous substance at workplaces.
Risk to health	Means the likelihood that a substance will cause harm to health in the circumstances of its use.
The Act	Means the <i>Occupational Health and Safety (Maritime Industry) Act 1993</i>
The Regulations	Means the <i>Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003</i>
Use	In relation to a substance at a workplace, means to produce, handle, store, transport or dispose of the substance at the workplace.

2. Overview

The use of asbestos in the Seacare jurisdiction is regulated by the *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003* (the Regulations), which commenced on 31 December 2003, made under the *Occupational Health and Safety (Maritime Industry) Act 1993* (the Act).

The Regulations give effect to the National Model Regulations for the Control of Workplace Hazardous Substances and are designed to minimise the risk to the health of seafarers due to exposure to asbestos. Accordingly, the Regulations prohibit the use of asbestos in the Seacare jurisdiction except when used in permitted circumstances as specified in the Regulations.

The Regulations also place obligations on manufacturers, suppliers, employees and contractors to minimise exposure to asbestos and other hazardous materials that are not subject to the prohibition.

3. Object of regulations

The object of the Regulations is to minimise the risk to the health of persons due to exposure to asbestos by:

- (a) ensuring that asbestos or materials containing asbestos used at workplaces is supplied with:
 - (i) labels; and
 - (ii) Material Safety Data Sheets (MSDS);
- (b) providing for:
 - (i) the assessment of the risk of exposure to asbestos; and
 - (ii) the control of exposure to asbestos; and
 - (iii) the training of employees and contractors who could be exposed to asbestos at work on the nature of the hazard and the level of risk posed by the asbestos, and the means of assessing and controlling exposure;
- (c) limiting the circumstances under which the use of chrysotile may be permitted through exemptions to the prohibition;
- (d) encouraging research into, and development of, alternatives to the use of chrysotile;
- (e) ensuring that emergency services and the Inspectorate have access to relevant information about hazardous substances used at workplaces; and
- (f) ensuring that relevant information included in the NICNAS (National Industrial Chemicals Notification and Assessment Scheme) summary reports is given to operators.

4. What is asbestos?

Asbestos refers to naturally occurring fibrous forms of mineral silicates belonging to the serpentine and amphibole groups of rock-forming minerals. The six forms of asbestos include:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthyophyllite asbestos;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos.

Asbestos is a hazardous substance with carcinogenic properties. Exposure to asbestos fibres in the air can cause a range of lung diseases and diseases of related tissue, including asbestosis and mesothelioma, a form of cancer which is usually fatal.

5. Asbestos prohibition in Australia

The prohibition on the use of asbestos in the Seacare jurisdiction prescribed by the Regulations reflects the national ban on the use of all forms of asbestos on and from 31 December 2003.

In 2001, the Workplace Relations Ministers' Council (WRMC), comprising the Commonwealth and State/Territory Ministers with responsibility for workplace relations, including OHS, decided that the threat to the health of workers from exposure to asbestos was not acceptable. The WRMC therefore agreed to prohibit the importation and use of all forms of asbestos commencing from 31 December 2003.

Consequently, from 31 December 2003 it is illegal to import, store, supply, sell, install or otherwise use any products containing asbestos (except in limited circumstances) in maritime workplaces.

6. Prohibition on the use of asbestos in the Seacare jurisdiction and permitted circumstances.

Regulation 2.08 and Schedule 2 of the Regulations prescribe that an operator must ensure that asbestos is not used at a workplace under the operator's control in any circumstances other than the following permitted circumstances:

- (a) bona fide research;
- (b) handling for storage prior to removal or disposal;
- (c) storage prior to removal or disposal;
- (d) removal or disposal in accordance with the applicable law or Code of Practice;
- (e) disturbance of naturally occurring asbestos that is incidental to operations not related to the extraction or processing of asbestos; and
- (f) use (without disturbance) of asbestos in products that are in-situ.

Note: The prohibition prescribed by regulation 2.08 refers to hazardous substances rather than asbestos specifically. Presently, the only substances listed on Schedule 2 are forms of asbestos.

This means that, from 31 December 2003, asbestos is not permitted to be used in the Seacare jurisdiction unless it falls within one of the six permitted circumstances outlined above.

In the event that asbestos is used for a permitted circumstance under the Regulations, manufacturers, suppliers, operators, employees and contractors must all adhere to the obligations prescribed by the Regulations.

7. In-situ asbestos

Regulation 2.03 of the Regulations defines in-situ asbestos to mean an asbestos product that, on 31 December 2003, is fixed or installed:

- (a) in:
 - (i) a ship or other structure that forms a workplace; or
 - (ii) in a plant or any other thing that is for use at a workplace; and
- (b) in a way that does not constitute a risk to users until the asbestos contained in the product is disturbed.

This means that a vessel cannot have any asbestos product fixed or installed after 31 December 2003. An asbestos product is only permitted if it was fixed or installed prior to 31 December 2003 and does not constitute a risk to users until the asbestos contained in the product is disturbed.

8. Management of in-situ asbestos

While the ultimate goal is the removal of asbestos and materials containing asbestos, in some maintenance and service situations, control measures other than removal may be justified, but only if a risk assessment has been undertaken and the risk of generating airborne asbestos fibres is minimised.

The risk assessment for asbestos should include consideration of:

- the location and condition of the asbestos or material containing asbestos;
- the type (eg cement sheet, vinyl tiles);
- if it is friable or non-friable;
- if the asbestos or material containing asbestos is liable to further damage or deterioration;
- if there are any inaccessible areas that are likely to contain asbestos;
- the likelihood of possible exposure; and
- if the nature or location of any work to be carried out is likely to disturb the asbestos.

The control measures required for asbestos and materials containing asbestos are determined from the risk assessment and the following principles:

- notwithstanding the ultimate goal of a workplace being free of asbestos containing material, priorities should be set for the short term.
- asbestos, which is friable and not in a stable condition, where there is a risk of exposure, should be removed by a competent person or by a licensed removalist (in States where a licence is required) as soon as practicable.
- asbestos that is friable, but in a stable condition and accessible, should be given serious consideration for removal.
- any remaining asbestos should be clearly labelled where practicable and regularly inspected to ensure that it is not deteriorating or contributing to an unacceptable health risk.
- asbestos, if stable and inaccessible, may be left in-situ until demolition, partial demolition, or re-fit. However, asbestos needs to be removed before demolition, partial demolition or re-fit.

The following is a list of some typical maintenance and service tasks that are likely to disturb asbestos and may only be performed after a risk assessment and implementation of control measures to minimise exposure to airborne asbestos fibres:

- drilling or grinding of asbestos cement products;
- sealing, painting, coating and cleaning of asbestos cement products;
- replacing cabling in asbestos cement conduit or boxes;
- inspection of in-situ asbestos friction materials or seals.

Other situations not in the above list, but determined by a competent person to be a similar task and constitute a similar level of risk may be performed after the risk has been assessed and appropriate control measures implemented. If, following a risk assessment, the maintenance or service task proceeds, the asbestos product must be returned to an in-situ state and not constitute a risk to the user –if this situation cannot be achieved, replacement may be the only safe option.

Any such work should only occur with full consultation and training of people performing the work and should be documented and supervised. The work area needs to be isolated and access restricted to essential workers only. Barriers and warning signs may be required.

Personal protective equipment needs to be selected to minimise contamination of clothing and provide an adequate level of respiratory protection. The level of respiratory protection will depend on the risk assessment. Part of the risk assessment and control measures should include a procedure for controlling asbestos-containing material that is dislodged or disturbed. Thorough decontamination of the work area should occur at the end of the maintenance or service work. The use of disposable protective coverings should be strongly considered.

Once maintenance and service work has been carried out the operator must ensure that the asbestos product continues to be in-situ and does not constitute a risk to the user.

9. Asbestos management plan

Operators to whom the Regulations apply are encouraged to develop an asbestos management plan and to ensure all relevant employees are familiar with the plan. The asbestos management plan might include as a minimum, the following elements:

- training of employees in relation to asbestos – in particular raising awareness of the Register of hazardous substances including awareness of the location of asbestos in the workplace i.e. on the vessel, particularly where it is enclosed and could be accidentally exposed, and on how to read a Material Safety Data Sheet;
- the risk assessment and risk control process and its periodic review;
- operator policy on atmospheric monitoring and health surveillance; and
- what to do in the event of an exposure or potential exposure to asbestos – immediate control measures while at sea, reporting, and control measures on arrival in port.

10. Applications for exemptions from the asbestos prohibition

Regulation 2.09 of the Regulations prescribes that the prohibition on the use of asbestos does not apply to an operator if the Authority exempts the operator from the application of the Regulations. Schedule 3 of the Regulations outlines the grounds on which the Authority can grant an exemption.

Schedule 3 prescribes that exemptions in relation to the use of Chrysotile are not effective after the time limit specified by the Regulations. The last specified time limit ceased on 31 December 2007. Accordingly, operators may no longer be exempted from the prohibition on the use of Chrysotile under the Regulations.

The Seacare Authority may still grant exemptions under Regulation 2.09 in relation to the use of non-Chrysotile asbestos, however, to do so, the Authority must first be satisfied that:

- (a) the use of non-Chrysotile asbestos is essential to the operation of the operator's business; and
- (b) there is no reasonable alternative substance for the non-Chrysotile asbestos; and
- (c) there are no circumstances suggesting that granting the exemption would be inconsistent with the objects of Part 2 of the Regulations.

The Regulations prescribe that the object of Part 2 is to minimise the risk of health of persons due to exposure to hazardous substances.

Accordingly, the criteria for exemption from the prohibition of the use of non-Chrysotile asbestos are extremely onerous and will only be satisfied in very specific circumstances. For this reason, and in light of the national ban on the use of all forms of asbestos, the Seacare Authority encourages stakeholders to consider all alternative options before seeking an exemption pursuant to Regulation 2.09.

11. Asbestos not subject to the prohibition

The Regulations place the following obligations on manufacturers, suppliers, operators, employees and contractors to minimise exposure to asbestos that is not subject to the prohibition.

(a) Manufacturers and Suppliers

Manufacturers and suppliers must provide the operator with Material Safety Data Sheets (MSDS) for any product or component that contains asbestos and suppliers must label each container of hazardous substances.

(b) Operators

The Regulations prescribe that operators must:

- (i) ensure that the MSDS is readily available to employees or contractors;
- (ii) ensure that a register is kept and maintained for asbestos products that are used at the workplace;
- (iii) ensure that a risk assessment is made in relation to any asbestos at the workplace;
- (iv) ensure that no employee or contractor is exposed to airborne concentrations of asbestos, in the breathing zone, at a level that exceeds the exposure standard;
- (v) undertake atmospheric monitoring if there is a potential risk of exposure to asbestos;
- (vi) provide health surveillance of an employee or a contractor who has been identified as being exposed to asbestos;
- (vii) ensure that employees and contractors have suitable training if there is potential that they could be exposed to asbestos;
- (viii) notify an employee or contractor of exposure to asbestos if it is likely that the employee or contractor has been exposed; and
- (ix) keep records or assessment reports for at least 30 years if atmospheric monitoring or health surveillance has been undertaken or five years if there was no need for atmospheric monitoring or health surveillance.

(c) Employees and Contractors

Employees and contractors must report any matter that may affect the operator in meeting its obligations under the Regulations.

12. Removal and disposal of asbestos

Removal or disposal of asbestos should be done in accordance with a law of a State or Territory relating to the removal of asbestos. Operators will need to contact the following State and Territory OHS Authorities to determine what existing laws relate to the removal of asbestos:

NSW	WorkCover NSW	13 10 50
VIC	Worksafe Victoria	1800 136 089
SA	Workcover SA	13 18 55
QLD	Workplace Health and Safety Queensland	1300 369 915
TAS	Workplace Standards Tasmania	1300 135 513
WA	Worksafe	1300 307 877
NT	NT Worksafe	1800 019 115

If a law relating to the removal of asbestos does not exist in the State or Territory then the Code of Practice for the Safe Removal of Asbestos 2nd edition [NOHSC: 2002 (2005)] applies. The Code of Practice for the Safe Removal of Asbestos is available from the Safe Work Australia website at www.safeworkaustralia.gov.au.

13. Importation prohibition

In addition to the occupational health and safety prohibition on the use of asbestos in the Australian Maritime Industry, the Australian Customs regulations also prohibit the import of asbestos. The Australian Customs regulations prescribe that importing asbestos and products containing asbestos, is prohibited except in a limited number of circumstances.

More information on the Customs regulations is available from the Australian Customs and Border Protection Service.

14. Further information

Further information relation to the Regulations and asbestos in the Maritime Industry is available from:

The Seacare Authority

GPO Box 9905

CANBERRA ACT 2601

Telephone: (02) 6275 0070

Email: seacare@comcare.gov.au

Website: www.seacare.gov.au

Australian Maritime Safety Authority

Telephone: 1800 641 792

Website: www.amsa.gov.au

Australian Customs and Border Protection Service

Telephone: 1300 363 263

Email: information@customs.gov.au

Website: www.customs.gov.au

Safe Work Australia

Telephone: (02) 6121 5317

Website: www.safeworkaustralia.gov.au

15. Further guidance

- *Occupational Health and Safety (Maritime Industry) (National Standards) Regulations 2003*;
- *Occupational Health and Safety (Maritime Industry) Act 1993*;
- *Customs (Prohibited Imports) Regulations 1956*;
- Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018(2005)];
- Safe Removal of Asbestos 2nd edition [NOHSC: 2002(2005)];
- Guidance Note on the Membrane Filter Method for Estimating Airborne Asbestos Fibres 2nd edition [NOHSC: 3003(2005)];
- Guidance Note on the Interpretation of Exposure Standards for Atmospheric Contaminants in the Occupational Environment 3rd edition [NOHSC: 3008(1995)];
- National Model Regulations for the Control of Workplace of Workplace Hazardous Substances [NOHSC: 1005(1994)];
- National Code of Practice for the Control of Workplace Hazardous Substances [NOHSC: 2007(1994)];
- Guidance Note for the Assessment of Health Risks Arising from Hazardous Substances in the Workplace [NOHSC: 3018(1994)].

